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12 UNITED STATES DISTRICT COURT  
13 EASTERN DISTRICT OF WASHINGTON

14 UNITED STATES OF AMERICA,

15  
16 Plaintiff,

17 v.  
18

19 RONALD CRAIG ILG,

20 Defendant.  
21  
22  
23

Case No. 2:21-cr-00049-WFN

**DEFENDANT’S MOTION TO  
SUPPRESS EVIDENCE  
DERIVATIVE OF COINBASE  
SEARCH WARRANT**

With Oral Argument:

March 21, 2022 at 8:30 am  
Spokane, WA

24  
25 COMES NOW, the Defendant Ronald C. Ilg, MD (“Dr. Ilg”), by and  
26 through his attorneys of record, and hereby moves the Court for an Order  
27 suppressing any and all evidence derivative of the unconstitutional Search  
28 Warrant issued for Bitcoin transactions and records maintained by Coinbase.  
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1 As explained below, the Court must suppress all evidence derivative of the  
2 violation of the Fourth Amendment of the Constitution of the United States as:  
3

4 (1) The Coinbase Search Warrant was issued absent probable cause.  
5

6 (See Decl. of Andrew M. Wagley in Supp. of Def.'s Pretrial Motions  
7 ("Wagley Decl."), Ex. A.) The "copied-and-pasted" alleged dark  
8 web messages do not provide adequate reliability, veracity, and basis  
9 of knowledge regarding the news organization's anonymous source.  
10  
11

12 (See Wagley Decl., Ex. A.)  
13

14 (2) The Federal Bureau of Investigation ("FBI") failed to adequately  
15 corroborate the alleged messages based upon future activity. See  
16

17 *United States v. Luong*, 470 F.3d 898, 903 (9th Cir. 2006)  
18 (information provided by anonymous source "must predict future  
19

20 actions by the suspect that are subsequently corroborated by the  
21 police"). The only attempted corroboration by the FBI was either  
22

23 publicly available information or innocuous text messages provided  
24 by Dr. Ilg's estranged wife in the middle of a contentious divorce.  
25  
26

27 (3) Any and all fruit of the poisonous tree must be excluded. The "good  
28 faith" exception to the exclusionary rule does not apply based upon  
29 the complete lack of probable cause in the Search Warrant.  
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## **BACKGROUND**

This is a prosecution for attempted kidnapping and various other crimes relating to alleged dark web messages. (*See* ECF No. 80.) Dr. Ilg has pled not guilty and expressly maintains his innocence. (*See* ECF No. 90.) The Government’s theory of the case is that Dr. Ilg, using the moniker “Scar215,” communicated “with various administrators/representatives from dark-web sites to hire someone to harm two individuals in Spokane, Washington.” (ECF No. 1 at 4.) On April 9, 2021, the FBI obtained a Search Warrant “for information related to the certain Bitcoin Transactions . . . which are stored on premises controlled by Coinbase, a virtual currency exchange.” (Wagley Decl., Ex. B at 1.) The Coinbase Search Warrant was granted by United States Magistrate Judge John T. Rodgers based upon an Application authored by FBI Special Agent (“SA”) Eric Barker. (Wagley Decl., Ex. A.)

Pursuant to the Application, the alleged dark web messages were provided by an unknown source, to an international news organization, to one of the alleged victims, and then to the FBI. (*See* Wagley Decl., Ex. A at 14-15.) The Application alleges that Victim 1 is Dr. Ilg’s former colleague and Victim 2 is Dr. Ilg’s “estranged wife.” (*Id.* at 2.) Pursuant to the Application, “[o]n April 5, 2021, FBI learned from Bevan Maxey, who is an attorney for VICTIM 2 . . . ,

1 that the British Broadcasting Company ('BBC') was conducting an investigation  
2  
3 for a podcast series related to murder-for-hire on the dark web." (*Id.* at 14.)  
4  
5 During conversations with the FBI, individuals from BBC indicated that "BBC  
6 obtained the communications themselves from a source and/or sources unknown  
7 to the FBI, which describe ongoing negotiations between **Scar215** and various  
8  
9 monikers to assault one victim and to kidnap, assault, and extort a second  
10  
11 victim, in exchange for a cryptocurrency payment." (*Id.* at 14-15.)  
12

13 The dark web messages are attached as "Exhibit 1" to the Application.  
14  
15 (*See* Wagley Decl., Ex. A at 37-51.) The messages appear to be "copied-and-  
16  
17 pasted" into a word document and are not screenshots or files of the alleged  
18  
19 original messages. (*See id.*) In an obscure footnote, the Application states:

20 The BBC utilized a confidential source of information, who is  
21 unknown to the FBI. This BBC group, utilizing the same source,  
22 identified an earlier murder-for hire plot that resulted in the FBI  
23 arrest of a woman in Milwaukee, Wisconsin for attempting to kill  
24 her husband via dark web murder-for-hire services. On April 6,  
25 2021, the FBI sought to obtain identification information for the  
26 confidential source. BBC has not provided identification  
27 information at this time. The FBI is unaware of any incident to  
which the source has failed to provide accurate information.

28 (*Id.* at 15.)  
29

30 The alleged messages range from February 23, 2021 through April 8, 2021,  
31  
32 between "Scar215" and "Admin Internet Killers," "Miguel," and "Juan admin

1 Sinaloa Cartel.” (*See* Wagley Decl., Ex. A at 15-30.) The Application indicates  
2  
3 that the messages contain the “home address” of Victim 1, a request “to  
4  
5 physically assault VICTIM 1,” and a picture of Victim 1 from her employer’s  
6  
7 website. (*Id.* at 14-16.) The Application further indicates that the messages  
8  
9 provide the “home address” of Victim 2 and a “payment for a hitman to  
10  
11 physically kidnap, assault, drug, and extort VICTIM 2.” (*Id.* at 18.) The  
12  
13 messages regarding Victim 2 allegedly identify her “father” and “dog.” (*Id.* at  
14  
15 19.) SA Barker notes “[d]uring my investigation, I interviewed VICTIM 2, who  
16  
17 confirmed that she has a dog and her father lives in the Spokane area.” (*Id.*)

18 The Application provides that further messages regarding Victim 2  
19  
20 allegedly state that she has “a part-time job at SpaBlue,” indicates “[s]he works  
21  
22 there every other Wednesday night and closes the business by herself,” and  
23  
24 “[h]er schedule gets complicated because she has kids every other week.”  
25  
26 (Wagley Decl., Ex. A at 22.) SA Barker states in the Application that he  
27  
28 verified “VICTIM 2 does work part time at Spa Blue and works evenings on  
29  
30 weeks that she does not have her kids.” (*Id.* at 23.) Importantly, Victim 2’s  
31  
32 work schedule with SpaBlue was posted on her employer’s website for purposes  
of appointment availability, and the parties’ temporary parenting plan was

1 publicly available from the Spokane County Superior Court, and both these  
2  
3 schedules were generally known by their network of family and friends.

4  
5 The Application likewise identifies alleged messages “between an apparent  
6  
7 escrow service and the individual who was using the dark web to solicit  
8  
9 someone to kidnap, assault, extort, and drug VICTIM 2.” (Wagley Decl., Ex. A  
10  
11 at 27.) An alleged April 1, 2021 message from the escrow service provides:  
12  
13 “The funds will be sent back to the address you provided, and the transaction is  
14  
15 being canceled.” (*Id.* at 29.) The Application further allegedly identifies a  
16  
17 message from “Scar215” to “Juan admin Sinaloa Cartel” dated April 8, 2021  
18  
19 discussing the transfer of funds into a new escrow. (*Id.* at 30.) However, no  
20  
21 new escrow account is identified in the Application. (*See id.*)

22  
23 At no point during the investigation did the FBI correspond with “Scar215”  
24  
25 or direct such correspondence to occur. (*See* Wagley Decl., Ex. A.) In the  
26  
27 application, the FBI attempted to corroborate Dr. Ilg’s involvement by virtue of  
28  
29 three pieces of alleged evidence obtained from Dr. Ilg’s estranged wife, Victim  
30  
31 2. (*See id.* at 31-35.) The Application provides that Dr. Ilg and Victim 2 “are  
32  
currently engaged in contentious divorce proceedings and maintain joint custody  
of their child.” (*Id.* at p. 33.) Furthermore, Victim 2 told the FBI that Dr. Ilg  
“located [Witness 1] on the internet and invited her into a sexual relationship”

1 with Dr. Ilg and Victim 2 after the birth of their child. (*Id.* 32) The Application  
 2 continues: “As time passed, [Dr. Ilg] became more interested in [Witness 1],  
 3 leaving VICTIM 2 increasingly uncomfortable with the relationship.” (*Id.*)  
 4  
 5

6 In the Application, the three alleged pieces of corroborating information  
 7 are: (1) text messages between Dr. Ilg and his former girlfriend (“Witness 1”),  
 8 (2) test messages between Dr. Ilg and a former nanny (“Nanny”), and (3) text  
 9 messages between Witness 1 and Victim 2. (Wagley Decl., Ex. A at 31-35.)  
 10  
 11

12 The alleged text messages between Dr. Ilg and Witness 1 provide:  
 13

14 **Witness 1:** you hired someone to hurt [Victim 2] from the dark  
 15 web using bitcoin stop now . . . leave me alone forever I am scared  
 16 of you  
 17

18 . . .

19 **Dr. Ilg:** I absolutely did not hire anyone. That’s a lie. . . . And  
 20 you said Bryce could contact his dealers and get people to hurt me  
 21 and my family . . . That is real.

22 (*Id.* at 32.)

23 The Application further states that “VICTIM 2 provided the FBI with a  
 24 statement and supporting text messages from a person VICTIM 2 identified as a  
 25 nanny” that are undated and likely from the divorce proceedings. (Wagley  
 26 Decl., Ex. A at 33.) These undated and stale messages provide:  
 27  
 28

29 **Dr. Ilg:** It would depend on what I decide the scenario would be  
 30 and your comfort level. As an example, if it was a kidnapping  
 31 scenario. Something many women fear and yet sorta fantasize  
 32

1 about. . . . It heightens the experiences, gets the adrenaline flowing  
 2 and neatly changes the whole dynamic with just that little bit of  
 3 difference. Of course it would have to be planned out well ahead of  
 4 time so it certainly wouldn't be anytime soon. But, knowing that I  
 5 could have that extra tid bit of help adds dramatically.

6 . . .

7 **Nanny:** Mmmmm I though a lot about it and I think I'm going to  
 8 have to decline. I've never been the one to take part in any kind of  
 9 threesome or role play with another couple haha . . . If it were  
between a boyfriend maybe that would be different. Lol

10 (*Id.* at 33.) The Application indicates that "[t]he FBI has not yet contacted the  
 11 nanny to confirm the content of the messages provided by VICTIM 2." (*Id.*)

12 Finally, the Application provides that "[o]n April 8, 2021, [Witness 1], who  
 13 is currently in a relationship with [Dr. Ilg] sent the following text message to  
 14 VICTIM 2." (Wagley Decl., Ex. A at 34.) The alleged message in the  
 15 Application merely provides: "Some strange stuff has happened while we have  
 16 been here . . . I need to talk to you asap when we get back." (*Id.*) The message  
 17 is vague and does not even mention Dr. Ilg. (*See id.*)

18 Based upon the Coinbase Search Warrant, the Government allegedly tied  
 19 the Bitcoin escrow transactions to an account registered to Dr. Ilg. (*See* ECF  
 20 No. 1 at 10.) The FBI alleges that the results of the Coinbase Search Warrant  
 21 "indicate that ILG used Coinbase.com to transfer approximately \$56,308.12 into  
 22 escrow to pay for the assault of VICTIM 1 and for the plan to kidnap, assault,  
 23

1 extort, and drug VICTIM 2.” (*Id.*) Thereafter, the Government obtained  
 2  
 3 additional search warrants, interviewed Dr. Ilg at the Spokane International  
 4  
 5 Airport on April 11, 2021, and developed probable cause to arrest Dr. Ilg. (*See*  
 6  
 7 *id.*) Dr. Ilg now brings the current Motion to Suppress.

### 8 **POINTS & AUTHORITIES**

9  
 10 The Fourth Amendment of the Constitution of the United States provides  
 11 that “[t]he right of the people to be secure in their persons, houses, papers, and  
 12 effects, against unreasonable searches and seizures shall not be violated.” The  
 13 Fourth Amendment protects against “the ‘general warrant’ abhorred by the  
 14 colonists,” which allowed “a general, exploratory rummaging in a person’s  
 15 belongings.” *Coolidge v. New Hampshire*, 403 U.S. 443, 467 (1971).  
 16  
 17 Therefore, “no Warrants shall issue, but upon probable cause, supported by Oath  
 18 or affirmation.” U.S. Const. amend. IV. Evidence obtained in violation of the  
 19 Fourth Amendment must be suppressed as the “fruit of the poisonous  
 20 tree.” *Wong Sun v. United States*, 371 U.S. 471, 488 (1963).  
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#### 26 **A. The Information and Alleged Dark Web Messages Provided By the** 27 **Unknown Source Do Not Establish Probable Cause.** 28

29 In determining probable cause for a search warrant, “a court must view the  
 30 ‘totality of circumstances’ set forth in the affidavit” to determine if “there is a  
 31  
 32

1 fair probability that contraband or evidence of a crime will be found in a  
2 particular place.” *United States v. DeLeon*, 979 F.2d 761, 764 (9th Cir. 1992);  
3 *accord Illinois v. Gates*, 462 U.S. 213 (1983). “All data necessary to show  
4 probable cause for the issuance of a search warrant must be contained within the  
5 four corners of a written affidavit given under oath.” *United States v. Luong*,  
6 470 F.3d 898, 904 (9th Cir. 2006); *accord Franks v. Delaware*, 438 U.S. 154,  
7 165 (1978) (“It is established law that a warrant affidavit must set forth  
8 particular facts and circumstances underlying the existence of probable cause, so  
9 as to allow the magistrate to make an independent evaluation of the matter.”).

10 “When a search warrant is based solely on an informant’s tip, the proper  
11 analysis is whether probable cause exists from the totality of the circumstances  
12 to determine a sufficient level of reliability and basis of knowledge for the tip.”  
13 *United States v. Bishop*, 264 F.3d 919, 924 (9th Cir. 2001). In other words,  
14 “officers must provide some basis to believe that the tip is true” as “hearsay  
15 from an unknown informant is highly suspect.” *United States v. Clark*, 31 F.3d  
16 831, 834 (9th Cir. 1994). “An anonymous tip standing alone does not  
17 demonstrate an informant’s veracity or reliability because an anonymous tipster  
18 cannot be held accountable if he or she provides inaccurate information, and the  
19 police cannot assess the tipster's reputation.” *United States v. Morales*, 252 F.3d

1 1070, 1074 (9th Cir. 2001). As such, “[a]n anonymous tip, without more, does  
 2 not constitute probable cause.” *United States v. Mendonsa*, 989 F.2d 366, 368  
 3 (9th Cir. 1993). In other words, “an anonymous tip is entitled to little or no  
 4 weight in a probable cause evaluation if it is entirely uncorroborated and lacks  
 5 any indication of reliability.” *Clark*, 31 F.3d at 834.  
 6  
 7

8  
 9  
 10 The crux of the Court’s probable cause inquiry under the totality of the  
 11 circumstances is: (1) the unknown source’s veracity, (2) the reliability of the  
 12 information, (3) the unknown source’s basis of knowledge, and (4) independent  
 13 police corroboration. *See Gates*, 462 U.S. at 230; *accord Morales*, 252 F.3d at  
 14 1074; *see also United States v. Landis*, 726 F.2d 540, 543 (9th Cir. 1984).  
 15  
 16

### 17 ***1. Veracity.***

18  
 19  
 20 The first factor for the Court to consider in the totality of the circumstances  
 21 analysis is the unknown source’s veracity. Adequate veracity is present if the  
 22 informant’s “information was reliable in the past.” *Landis*, 726 F.2d at 543.  
 23 The veracity of an anonymous source must be known to law enforcement and  
 24 may not be conclusory provided by a third party. *See, e.g., United States v.*  
 25 *Shipstead*, 433 F.2d 368, 372 (9th Cir. 1970) (“the averment ‘This informant has  
 26 supplied law enforcement officers with information over the last five or six  
 27 months which has resulted in three arrests’ is legally sufficient”). In this vein,  
 28  
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1 “[i]t is the magistrate, and not the affiant, that is responsible for making this  
2 determination” regarding veracity. *United States v. Summage*, 481 F.3d 1075,  
3 1078 (8th Cir. 2007). As such, when the veracity of an anonymous source is  
4 completely unknown to law enforcement, the Court must “require the officer to  
5 take steps to test the informant’s veracity.” *United States v. Crawford*, 943 F.3d  
6 297, 306 (6th Cir. 2019).  
7

8  
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10  
11 Here, SA Barker’s Application provides absolutely nothing regarding the  
12 veracity of BBC’s anonymous source. (*See* Wagley Decl., Ex. A at 14-15.) To  
13 the contrary, SA Barker acknowledges that the BBC obtained such alleged  
14 communications “from a source and/or sources unknown to the FBI.” (*Id.* at  
15 14.) A footnote further elaborates: “The BBC utilized a confidential source of  
16 information, who is unknown to the FBI. . . . BBC has not provided  
17 identification information at this time.” (*Id.* at 15.) Although the Application  
18 states “the same source” provided information “that resulted in the FBI arrest of  
19 a woman in Milwaukee, Wisconsin,” such information clearly was provided by  
20 BBC and not verified by SA Barker. (*Id.*) Further, the statement that “[t]he FBI  
21 is unaware of any incident to which the source has failed to provide accurate  
22 information” is disingenuous as the source’s track-record is completely  
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1 unknown and unproven to the FBI in the Application. (*Id.*) This factor strongly  
 2  
 3 leans against probable cause. *See Gates*, 462 U.S. at 230.

## 4 **2. Reliability.**

5  
 6 The second factor for the Court to consider is the reliability of the unknown  
 7  
 8 source's information. In general, reliability takes into account whether such  
 9  
 10 information is generally trustworthy. In evaluating reliability, the Court may  
 11  
 12 consider "any apparent motive to fabricate the tip." *United States v. Rowland*,  
 13 464 F.3d 899, 908 (9th Cir. 2006); *accord Bishop*, 264 F.3d at 926 ("[i]t would  
 14  
 15 have to be a very naive magistrate who would suppose that a confidential  
 16  
 17 informant would drop in off the street with such detailed evidence and not have  
 18  
 19 an ulterior motive"); *see also Cruz v. Kauai County*, 279 F.3d 1064, 1069 (9th  
 20  
 21 Cir. 2002) (probable cause lacking when law enforcement "knew [suspect's ex-  
 22  
 23 wife] was potentially biased and had reason to fabricate, but he conducted no  
 24  
 25 investigation into the truth or falsity of her allegations"). Information provided  
 26  
 27 by a news organization may be less reliable if associated with an apparent  
 28  
 29 motive to sensationalize a story. *See id.* Similarly, information provided by an  
 30  
 31 estranged spouse is accompanied by a motive to fabricate. *See id.*

32 Here, the Application provides no indication of reliability. (*See Wagley*  
 Decl., Ex. A.) First, the information is funneled through various sources—from

1 the anonymous source, to the BBC, to Victim 2's attorney, and then finally to  
2 the FBI. (*Id.* at 14-15.) Second, not only had the BBC refused to provide its  
3 source to the FBI, but BBC was "conducting an investigation for a podcast  
4 series related to murder-for-hire on the dark web." (*Id.* at 14.) Third, the  
5 Application provides that Victim 2 is Dr. Ilg's "estranged wife," that they "are  
6 currently engaged in contentious divorce proceedings," and that Victim 2  
7 became "increasingly uncomfortable" after Dr. Ilg invited Witness 1 "into a  
8 sexual relationship." (*Id.* at 32.) Fourth—and most importantly—the alleged  
9 dark web messages themselves are "copied-and-pasted" into a document and are  
10 not actual screenshots or files of the original messages. (*See id.* at 37-51.)

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18       These unauthenticated messages, provided by an international news  
19 organization conducting a podcast investigation, are unreliable as a matter of  
20 law. The BBC would clearly have a motive to sensationalize, fabricate, and/or  
21 generate the alleged messages to create a story regarding a wealthy doctor, in the  
22 middle of a contentious divorce, resorting to paying the cartel via Bitcoin on the  
23 dark web to kidnap his estranged wife after bringing another woman into the  
24 relationship. (*See* Wagley Decl., Ex. A.) Furthermore, the FBI was aware that  
25 Dr. Ilg was involved in a contentious divorce and brought another woman into  
26 the relationship, but still relied upon attempted corroborating information from  
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1 his estranged wife. (*See id.*) Based upon the motive to fabricate, this factor  
 2  
 3 weighs strongly against probable cause. (*See id.*)

### 4 5 **3. Basis of Knowledge.**

6 The third factor for the Court to consider is the basis of knowledge of the  
 7  
 8 confidential source's alleged information. Necessarily, an informant is more  
 9  
 10 reliable if his or her "information was not based on hearsay, but came from first-  
 11  
 12 hand knowledge." *Bishop*, 264 F.3d at 925. Here, the basis of information for  
 13 the unknown source(s) is unknown. (*See* Wagley Decl., Ex. A at 14-15.) As  
 14  
 15 indicated in the Application: "On April 6, 2021, the FBI sought to obtain  
 16  
 17 identification information for the confidential source. BBC has not provided  
 18  
 19 identification information at this time." (*Id.* at 15.) As admitted by the  
 20  
 21 Application, it is likely more than one individual involved in the dark web  
 22  
 23 messages. (*See id.* at 15 (noting "a source and/or sources unknown to the  
 24  
 25 FBI").) In addition, if these messages are authentic and true, the unknown  
 26  
 27 source(s) would be implicated in a multitude of crimes regarding solicitation and  
 28  
 29 conspiracy to kidnap over the dark web. (*See id.*)

### 30 31 **4. Independent Corroboration.**

32 The fourth factor for the Court to consider is independent corroboration.  
 The totality-of-the-circumstances analysis recognizes "the value of

1 corroboration of details of an informant's tip by independent police work.”  
2  
3 *Gates*, 462 U.S. at 241. The purpose behind corroboration is to “reduce[] the  
4 changes of a reckless or prevaricating tale.” *Id.* at 244–45. In the Ninth Circuit,  
5 to establish probable cause an anonymous tip ““must predict future actions by  
6 the suspect that are subsequently corroborated by the police.”” *Luong*, 470 F.3d  
7 at 903 (quoting *Morales*, 252 F.3d at 1075); accord *Clark*, 31 F.3d at 834.  
8 Further, “[m]ere confirmation of innocent static details in an anonymous tip  
9 does not constitute corroboration.” *Clark*, 31 F.3d at 834-35; *Mendonsa*, 989  
10 F.2d at 369 (detective “merely verified ‘innocent’ facts; he did not corroborate  
11 predications of future activity”). Information “which is equally consistent with  
12 both legal or illegal activity” is insufficient. *Clark*, 31 F.3d at 835.  
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20 The Application not only completely fails to corroborate future actions by  
21 the suspect, but merely provides publicly available information, along with texts  
22 from the suspect’s estranged wife. (*See* Wagley Decl., Ex. A.) Any details in  
23 the alleged dark web messages are based upon static, publicly available  
24 information—home addresses, online work profiles, a pending divorce and  
25 parenting schedule, the fact that Victim 2 had a father and dog, etc. (*See id.* at  
26 15-30.) This information could conceivably be ascertained within minutes by  
27 anyone conducting a simple internet search. (*See id.* at 37 (typed “Notes” from  
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1 the anonymous source containing website links regarding Victim 1, Victim 2,  
2 and Dr. Ilg, as well as providing: “There is a ‘Dr. Ron C. Ilg’ who is a  
3 neonatologist who might connect the two.”.)  
4

5  
6 Additionally, the text messages provided by Victim 2 are innocuous and  
7 provide no indication of criminal activity. (*See id.* at 31-35.) In the alleged text  
8 messages between Dr. Ilg and Witness 1, Dr. Ilg expressly states: “I absolutely  
9 did not hire anyone. That’s a lie.” (*Id.* at 32.) In the alleged messages between  
10 Dr. Ilg and the nanny, Dr. Ilg is clearly describing a sexual fantasy scenario that  
11 “heightens the experience, gets the adrenaline flowing.” (*Id.* at 33.) In  
12 response, the nanny stated: “I’ve never been the one to take part in any kind of  
13 threesome or role play with another couple haha . . . If it were between a  
14 boyfriend maybe that would be different. Lol.” (*Id.* at 33.) Finally, the alleged  
15 text message exchange between Victim 2 and Witness 1 only provides: “Some  
16 strange stuff has happened while we have been here . . . I need to talk to you  
17 asap when we get back.” (*Id.* at 34.) If the scenario were urgent, the  
18 conversation would not have to wait until “when we get back.” (*Id.*)  
19

20  
21 Suffice it to say, further corroboration, particularly through the form of  
22 future actions, was required to establish probable cause. *See Clark*, 31 F.3d at  
23 835 (affidavit failed to establish “what steps law enforcement agents took to  
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1 corroborate the information”); *accord Luong*, 470 F.3d at 903 (“Beyond the  
 2 mere presence of a chemist on a plane, [the affidavit] lacks any predictive  
 3 information, the occurrence of which would verify the tip.”); *but see Gates*, 462  
 4 U.S. at 244-46 (independent corroboration of predicted future activities  
 5 contained in anonymous letter established probable cause). In this vein, a  
 6 similar FBI matter involving the dark web was corroborated by virtue of “[a]n  
 7 undercover FBI agent, posing as a hitman,” who “made contact with [the  
 8 suspect],” “sent a photo of Victim 1,” and confirmed “final . . . payment via  
 9 Western Union.” (Wagley Decl., Ex. D at 2.) Based upon the failure of the FBI  
 10 to corroborate the anonymous messages in the situation at hand, probable cause  
 11 fails as a matter of law. *See id.*

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 20 **B. The Exclusionary Rule Warrants Suppression of All Derivative**  
 21 **Evidence Obtained as a Result of the Coinbase Search Warrant.**

22 The Supreme Court of the United States has “establish[ed] an exclusionary  
 23 rule that, when applicable, forbids the use of improperly obtained evidence at  
 24 trial.” *Herring v. United States*, 555 U.S. 135, 139 (2009). “[T]his judicially  
 25 created rule is ‘designed to safeguard Fourth Amendment rights generally  
 26 through its deterrent effect.’” *Herring*, 555 U.S. at 139-40 (quoting *United*  
 27 *States v. Calandra*, 414 U.S. 338, 348 (1974)). The purpose of the exclusionary  
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1 rule is to promote “police professionalism” and help “secure good evidence  
2 without violating the law and the rights of American citizens.” *United States v.*  
3 *Underwood*, 725 F.3d 1076, 1085 (9th Cir. 2013). As such, any and all fruit of  
4 the poisonous tree (*i.e.*, an unconstitutional search) must be suppressed. *See id.*  
5 This includes not only the Coinbase Search Warrant, but the custodial  
6 interrogation of Dr. Ilg at the Spokane International Airport, subsequent search  
7 warrants, and all obtained discovery. (*See* ECF No. 1 at 10-12.)

8 **C. The Good Faith Exception to the Exclusionary Rule is Inapplicable.**

9 The Government may argue that the “good faith” exception to the  
10 exclusionary rule applies. In general, “[e]ven though a warrant is based on  
11 insufficient probable cause, the evidence need not be suppressed if an officer  
12 relies in good faith on the warrant’s validity.” *Mendonsa*, 989 F.2d at 369  
13 (detective relied upon advice from county attorneys). “The burden of  
14 demonstrating good faith rests with the government.” *Underwood*, 725 F.3d at  
15 1085. The “good faith” exception does not apply “when the affiant knowingly  
16 or recklessly misleads the judge with false information,” or “when the affidavit  
17 is so lacking in indicia of probable cause that official belief in its existence is  
18 objectively unreasonable.” *Luong*, 470 F.3d at 902. The Ninth Circuit has held  
19 that there must be “binding appellate precedent . . . [that] specifically authorizes

1 the police's search.'" *Cano*, 934 F.3d at 1021 (quoting *United States v. Lara*,  
2 815 F.3d 605, 613 (9th Cir. 2016)). Pursuant to this standard, it is not enough if  
3 the issue is "'unclear' or for the government's position to be 'plausibly . . .  
4 permissible.'" *Cano*, 934 F.3d at 1021 (quoting *Lara*, 815 F.3d at 613-14).  
5  
6

7  
8 First, the good faith exception does not apply based upon a "critical  
9 deficiency" in the affidavit predicated upon "an unverified tip as the lynchpin  
10 for its theory of probable cause." *Luong*, 470 F.3d at 903. As indicated *supra*,  
11 the unverified tip is the lynchpin of the Application at issue. Second, at the very  
12 least, there is no binding appellate authority regarding the FBI's search. To the  
13 contrary, the Application is insufficient to establish probable cause based upon  
14 the multitude of authority cited herein. *See, e.g., Gates*, 462 U.S. at 230.  
15  
16

17  
18 The Application at issue was carefully crafted by SA Barker to lure  
19 Magistrate Rodgers into believing the FBI had probable cause. (*See Wagley*  
20 Decl., Ex. A at 19.) In this vein, SA Barker overstates alleged corroboration of  
21 completely static details, such as that Victim 2 "confirmed that she has a dog  
22 and her father lives in the Spokane area." (*Id.* at 19.) Further, SA Barker states  
23 that the source(s) provided information "that resulted in the FBI arrest of a  
24 woman in Milwaukee" and "[t]he FBI is unaware of any incident in which the  
25 source has failed to provide accurate information," while in the same breath  
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27  
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32

1 acknowledging “BBC has not provided identification information” and the  
 2  
 3 “source and/or sources [are] unknown to the FBI.” (*Id.* at 15.) Finally, the FBI  
 4  
 5 predicated the invasion of an individual’s personal privacy on unauthenticated,  
 6  
 7 “copied-and-pasted” messages provided by an international news organization,  
 8  
 9 all while attempting to corroborate via text messages provided by the suspect’s  
 10  
 11 estranged wife. (*See id.*) The good faith exception is clearly inapplicable.

### 12 CONCLUSION

13 Based upon the foregoing, the Defendant respectfully requests that the  
 14  
 15 Court suppress any and all evidence derivative of the Coinbase Search Warrant.

16 RESPECTFULLY SUBMITTED this 28th day of February, 2022.

17  
 18 ETTER, McMAHON, LAMBERSON,  
 19 VAN WERT & ORESKOVICH, P.C.  
 20

21 By: /s/ Andrew M. Wagley

22 Carl J. Oreskovich, WSBA #12779

23 Andrew M. Wagley, WSBA #50007

24 Attorneys for Ronald C. Ilg, MD  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 28th day of February, 2022, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to all attorneys of record in this matter.

EXECUTED in Spokane, Washington this 28th day of February, 2022.

By: /s/ Jodi Dineen  
Jodi Dineen, Paralegal